

HOUSE BILL 3278
By Fowlkes

AN ACT relative to the authority of Marshall County to levy and collect a privilege tax on new land development in the county in order to provide that new development contribute its fair share of the cost of providing public facilities and services made necessary by such new development.

WHEREAS, Marshall County is experiencing considerable growth in population and need for services and public facilities; and

WHEREAS, Marshall County is in need of additional revenue with which to fund its capital improvement program to meet the needs of its growing citizenry; and

WHEREAS, a privilege tax on new development is a fair and equitable way to raise funds to meet the demand for additional public facilities; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This chapter shall be known and cited as the "Marshall County Adequate Facilities Tax".

SECTION 2. As used in this act, unless a different meaning appears from the context:

(a) "Building" means any structure built for the support, shelter, or enclosure of persons, chattels, or movable property of any kind; the term includes a mobile home.

"Building" does not mean any structures used primarily for agricultural purposes.

(b) "Building Permit" means a permit for development issued in Marshall County, whether by the county or by any city therein.

(c) "Certificate of Occupancy" means a license for occupancy of a building or structure issued in Marshall County, whether by the county or by any entity therein.

(d) "Commercial" means the development of any property for commercial use, except as may be exempted by this act.

(e) "Development" means the construction, building, reconstruction, erection, extension, betterment, or improvement of land providing a building or structure or the addition of any building or structure, or any part thereof, which provides, adds to or increases the floor area of a residential or commercial use.

(f) "Dwelling Unit" means a room or rooms connected together constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease on a daily, weekly, monthly, or longer basis; physically separated from any other room(s) or dwelling units which may be in the same structure; and containing independent cooking and sleeping facilities.

(g) "Floor Area" means the total of the gross horizontal area of all floors, including usable basement and cellars, below the roof and within the outer surface of the main walls of principal or accessory buildings or the center lines of party walls separating such buildings or portions thereof, or within lines drawn parallel to and two (2) feet within the roof line of any building or portions thereof without walls, but excluding in the case of nonresidential facilities: arcades, porticoes, and similar open areas which are accessible to the general public, and which are not designed or used as sales, display, storage, service, or production areas.

(h) "General Plan" means the official statement of the planning commission which sets forth major policies concerning future development of the jurisdictional area and meeting the provisions set forth in Tennessee Code Annotated, Sections 13-3-301, 13-3-302, and 13-4-102. For purposes of this act only, a general plan may consist solely of the land development plan element which sets out a plan or scheme of future land usage.

(i) "Governing Body" means the county commission of Marshall County, Tennessee.

(j) "Person" means any individual, firm, co-partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, or other group or combination acting as a unit, and the plural as well as the singular number.

(k) "Place of Worship" means that portion of a building, owned by a religious institution which has tax-exempt status, which is used for worship services and related functions; provided, however, that a place of worship does not include buildings or portions of buildings which are used for purposes other than for worship and related functions or which are not intended to be leased, rented or used by persons who do not have tax-exempt status.

(l) "Public Buildings" means a building owned by the state of Tennessee or any agency thereof, a political subdivision of the state of Tennessee, including but not necessarily limited to counties, cities, school districts and special districts, or the federal government or any agency thereof.

(m) "Public Facility or Facilities" means a physical improvement undertaken by the county or city, including, but not limited to, the following: roads and bridges, parks and recreational facilities, jails and law enforcement facilities, schools, libraries, government buildings, fire stations, sanitary landfills, water, wastewater and drainage projects, airport facilities and other governmental capital improvements benefiting the citizens of the county and/or city.

(n) "Residential" means the development of any property for a dwelling unit or units.

SECTION 3. It is the intent and purpose of this act to authorize Marshall County to impose a tax on new development in the county payable at the time of issuance of a building permit or certificate of occupancy so as to ensure and require that the persons responsible for new development share in the burdens of growth by paying their fair share for the cost of new and expanded public facilities made necessary by such development.

SECTION 4. Engaging in the act of development within Marshall County, except as provided in Section 6 herein, is declared to be a privilege upon which Marshall County may, by resolution of the governing body, levy a tax in an amount not to exceed the rate set forth in Section 7.

SECTION 5. The governing body shall, by resolution, adopt administrative guidelines, procedures, regulations and forms necessary to properly implement, administer and enforce the provisions of this act.

SECTION 6. This act shall not apply to development of:

- (a) Public buildings;
- (b) Places of worship;
- (c) Barns or outbuildings used for agricultural purposes;
- (d) Replacement structures for previously existing structures destroyed by fire or other disaster; or
- (e) A structure owned by a nonprofit corporation which is a qualified 501(c)3 corporation under the Internal Revenue Code.

SECTION 7. For the exercise of the privilege described herein, Marshall County may impose a tax on new development not to exceed five dollars (\$5.00) per gross square foot of new residential and/or commercial development. The county may develop a tax rate schedule by which residential and commercial uses are classified by type for the purpose of imposition of the tax authorized herein.

SECTION 8. The tax established in this act shall be collected at the time of application for a building permit for development as herein defined or, if a building permit is not required, at the time of application for a certificate of occupancy by the county or city official duly authorized in such jurisdiction to issue building permits or certificates of occupancy. The revenue collected from this tax shall be collected by the county building commissioner, and the proceeds deposited with the county trustee and used exclusively for capital projects, including but not limited to debt service related to such improvements or projects, in the general fund, school

fund, special revenue funds, debt service fund or other capital project funds as designated by resolution of the board of county commissioners of Marshall County. No building permit for development as herein defined, or certificate of occupancy if no building permit is required, shall be issued in Marshall County unless the tax has been paid in full to the county.

SECTION 9. The authority to impose this privilege tax on new development in Marshall County is in addition to all other authority to impose taxes, fees, assessments, or other revenue raising or land development regulatory measures granted either by the private or public acts of the state of Tennessee and the imposition of such tax, in addition to any other authorized tax, fee, assessment or charge, shall not be deemed to constitute double taxation.

SECTION 10. The provisions of this act shall in no manner repeal, modify, or interfere with the authority granted by any other public or private law applicable to Marshall County. This act shall be deemed to create an additional and alternative method for Marshall County to impose and collect taxes for the purpose of providing public facilities made necessary by new development in the county.

SECTION 11. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 12. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of Marshall County. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body and certified to the secretary of state.

SECTION 13. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 12.

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